

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

UNITED STATES OF AMERICA §
§
§
v. § NO. 6:17CR7
§ JUDGE RC/JDL
§
§
DOUGLAS M. PICK §

ELEMENTS OF THE OFFENSE

COMES NOW, the United States of America, by and through the United States Attorney for the Eastern District of Texas, and files this pleading summarizing the elements of the offense to which the defendant intends to enter a plea of guilty to Count One of the information:

Title 18, United States Code, Section 1954, makes it a crime for anyone to give or offer or promise to give or offer money or other thing of value to a person occupying a status described in 18 U.S.C. § 1954(1)-(4) in relation to an employee benefit plan because of the actions or decisions of such a person or with intent to influence the actions or decisions of such a person with respect to the person's decisions or exercise of duties concerning a plan matter.

To establish that the defendant is guilty of offer, acceptance, or solicitation to influence the operations of employee benefit plan, the government must prove the following beyond a reasonable doubt:

First: That the defendant gave or offered or promised to give or offer money or other thing of value to a person occupying a status described in Section 1954(1)-(4) in relation to an employee benefit plan;

Second: That the defendant knew such money or other thing of value was given, offered, or promised because of any of the recipient/offeree's actions or decisions or other duties relating to any question or matter concerning such plan, that is, as a reward for any of the recipient/offeree's actions, decisions, or exercise of duties concerning a plan matter that the recipient/offeree would undertake in the future, or had determined to undertake, or had already undertaken in the past; or with the intent to influence any of the recipient/offeree's actions or decisions or other duties relating to any question or matter concerning such plan, that is, with a specific understanding that the recipient/offeree would undertake any of his or her actions, decisions, or exercise of duties concerning a plan matter in the future in exchange for the money or other thing of value; and

Third: That the employee benefit plan was an employee pension plan or an employee welfare benefit plan subject to Title I of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et seq. (ERISA).

Respectfully submitted,

BRIT FEATHERSTON
ACTING UNITED STATES ATTORNEY

/s/ Nathaniel C. Kummerfeld
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Elements of the Offense was served on counsel of record for defendant via the court's CM/ECF on this the 13th day of February, 2017.

/s/ Nathaniel C. Kummerfeld
Nathaniel C. Kummerfeld